



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
Kenneth B. Prince, ASLA, AICP, Executive Director

VACATION OF PUBLIC RIGHT OF WAY PROCEDURE

A vacation of public right of way petition may be filed by a property owner or by his attorney. The following information is provided as a **guide** for filing petitions.

Full responsibility for handling and following through on a given petition rests with the individual filing. We cannot over-emphasize the importance of verifying and submitting a **correct legal description**, as well as all other required information pertinent to the consideration of a given request.

Department of City Planning staff will gladly answer any questions, but it is not their function to prepare the petition, the surrounding property owner list, the stamped and addressed envelopes. If an individual does not feel they are capable of following this guideline, we would strongly suggest they consult their attorney and have it prepared for them.

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All petitions are to be legibly prepared in **TRIPLICATE** (all with original ink signatures) on 8 ½" by 11" paper and filed with the Department of City Planning, along with a check payable to the *City of Mishawaka* (or cash) in the amount of **\$400.00**.

The following items must be filed with the petition.

1. A list of all property owners of record within 300 feet of the subject property, provided by Planning Staff.
2. Business size (4 ½" by 9 ½") stamped envelopes addressed to all the property owners on the list received from the assessor office. The petitioners must supply their own envelopes. (DO **NOT** PUT A RETURN ADDRESS ON THE ENVELOPES—PLAN DEPARTMENT ADDRESS WILL BE STAMPED ON SO THAT ALL RETURNS COME BACK TO PLANNING) NOTE: When using a stamp meter, do not include date.

A copy of the vacation petition will be forwarded to the City Clerk, who will place it on the Common Council agenda. The petition is read before the Council and referred to the Plan Commission for the first of the three (3) public hearings that will be held. ***The Petitioner or a knowledgeable representative MUST be present at all three hearings.***

As a courtesy, the surrounding property owners will receive written notice stating the time and place of the public hearing scheduled by the Plan Commission, and the Petitioner or his designated representative ***must be present*** and be prepared to give the Commission a ***full*** explanation of the proposed vacation and answer any questions of the Commission. After their hearing, the Commission will send their recommendation to the Common Council.

In turn, the Common Council will have a ***second*** public hearing for the proposed vacation ordinance (your request) and will schedule a ***third*** public hearing. *It is the responsibility of the Petitioner to establish the date and times and to be present for all the public hearings.* **PERSONAL NOTIFICATION IS GIVEN FOR THE PLAN COMMISSION HEARING; NOTIFICATION IS NOT GIVEN FOR THE COMMON COUNCIL HEARINGS.** The City Clerk's office phone number is 574-258-1616.

***Failure to attend the public hearings will result in delaying action on the vacation.***

Please note: The Common council makes the final decision on all petitions requesting vacation of public right of way. The Plan Commission functions as an advisory body and makes recommendations to the Common Council. The Council is under no obligation to accept the recommendation of the Plan Commission.

**PLAN COMMISSION STAFF:**

|                       |                        |
|-----------------------|------------------------|
| Ken Prince ASLA, AICP | Executive Director     |
| Derek Spier, AICP     | City Planner           |
| Christa Hill          | Senior Planner         |
| Shad Annis            | Associate Planner      |
| Donna Burkart         | Administrative Planner |

**Telephone Number**  
**Office Hours**

**574 258-1625**      **Fax 574-968-6999**  
**Monday – Friday**      **8:30 – 4:45**

**This form is to be used merely as a guide to prepare your petition and is not a fill-in form.**

Date:

To The Honorable Members of  
the Common Council  
City of Mishawaka,  
Indiana And  
Mishawaka City Plan  
Commission City of  
Mishawaka, Indiana

Re: Petition for Vacation of Public Right of Way

The undersigned (*type in name(s) of adjacent property owner*) respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

***(Insert legal description of public right of way to be vacated, and if applicable, adjacent Lot Numbers and Subdivision, of the property adjacent to the right of way requested for vacation).***

Petitioners further state they are the owners of the property immediately adjacent to the above-described right of way.

Wherefore, the Petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted vacating the above described right of way located in the City of Mishawaka.

\_\_\_\_\_  
*Signature Line*  
ADJACENT PROPERTY OWNER  
Lot Number/Addition  
Type Name Below Written Signature

\_\_\_\_\_  
*Signature Line*  
ADJACENT PROPERTY OWNER  
Lot Number/Addition  
Type Name Below Written Signature

CONTACT PERSON:  
NAME  
ADDRESS  
PHONE NUMBER  
EMAIL